

Attachment A

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE FOR FARMERS' MARKETS AND COMMERCIAL CROP PRODUCTION (TC1200005)

WHEREAS, the Durham City Council wishes to amend certain provisions in the Unified Development Ordinance (UDO) regarding commercial crop production and farmers' markets; and

WHEREAS, it is the objective of the Durham City Council to have the UDO promote regulatory efficiency and consistency and the health, safety, and general welfare of the community;

NOW, THEREFORE, be it ordained that Article 5, Use Regulations; Article 7, Design Standards; Article 9, Landscaping and Buffering; Article 10, Off-Street Parking and Loading; and Article 16, Definitions, of the Unified Development Ordinance are amended to make the following changes set forth in the strikethroughs and underlining below:

PART 1

[Revise existing standards, and add new standards and definitions associated with farmers' markets and commercial crop production]

Sec. 5.1 Use Table

[Paragraphs within this section, but not listed, remain unchanged]

5.1.2 Use Table

[Portions of the table not included remain unchanged]

		RESIDENTIAL						NONRESIDENTIAL						PLANNED					DESIGN			
USE CATEGORY	SPECIFIC USE	RR	RS	RS-M	RU	RU-M	RC	CI	CN	OI	CG	SRP	IL	I	PDR	UC	CC	IP	MU	DD	CD	NOTES:
AGRICULTURAL USES (City Only)																						
Agriculture	All agriculture, except as listed below	P	L																			5.3.1A
	Apiculture	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Commercial crop production	P	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	5.3.1A
	Forestry	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L		L	5.3.1B

Sec. 5.2 Use Categories

[Paragraphs within this section, but not listed, remain unchanged]

5.2.2 Agricultural Use Categories

Characteristics: Characterized by uses that create or preserve areas intended primarily for the raising of animals and crops, and the secondary industries associated with agricultural production.		
Principal Uses	Accessory Uses	Uses Not included
Animal raising including horses, hogs, cows, sheep, goats, and swine, poultry, rabbits, and other small animals, fish hatchery, aquaculture, dairying, personal or commercial animal breeding and development Apiculture Greenhouse or nursery not engaged in retail trade, floriculture, horticulture, pasturage, row and field crops, viticulture, tree or sod farm, silviculture Livestock auction Riding academy or boarding stable	Ancillary indoor storage Animal (including poultry) processing, packing, treating, and storage, provided that these activities are accessory and secondary to normal agricultural activity Associated offices Auction ring Barns, garages, sheds, silos, stables (noncommercial) Home occupations Sales of agricultural products grown or raised on the premises Docks, noncommercial	Animal waste processing (see Waste-Related Service) Commercial feed lots (see Heavy Industrial) Livestock slaughtering (Heavy Industrial) Processing of food and related products (see Heavy Industrial) Solid or liquid waste transfer or composting (see Waste-Related Service) Housing for ranch or farm labor (Household Living) Resource Extraction Limited Agriculture (City Only)

5.2.5 Commercial Use Categories

F. Retail Sales and Service

Characteristics: Companies or individuals involved in the sale, lease or rental of new or used products, or providing personal services or repair to the general public.		
Principal Uses	Accessory Uses	Uses Not included
<p>Sales-Oriented: Convenience store (with or without gas sales) Drive-through facility Outdoor market Store selling, leasing or renting consumer, house, and business goods including alcoholic beverages, antiques, appliances, art supplies, baked goods, bicycles, books, cameras, carpet and floor coverings, crafts, clothing, computers, dry goods, electronic equipment, fabric, flowers, furniture, garden supplies, gasoline, gifts, groceries, hardware, house improvement, household products, jewelry, medical supplies, musical instruments, pets, pet supplies, pharmaceuticals, photo finishing, picture frames, plants, printed materials, produce, sporting goods, stationery, tobacco and related products, vehicle parts, and videos</p> <p>Personal Service-Oriented: Art, music, dance, or photographic gallery or studio Athletic, tennis, swim or health club Bulk mailing service Caterer not located in a restaurant Dry-cleaning or laundry drop-off facility, laundromat Funeral home or mortuary Hair, nail, tanning, massage therapy and personal care service Payday lenders or check cashing services Photocopy, blueprint, and quick-sign service Psychic or medium Drop-in/short-term childcare centers Security service Tailor, milliner, upholsterer Taxi dispatch center Taxidermist Veterinary clinic, animal hospital or kennel Urgent care or emergency medical office</p> <p>Repair-Oriented: Appliance, bicycle, canvas product, clock, computer, gun, jewelry, musical instrument, office equipment, radio, shoe, television or watch repair Locksmith</p>	<p>Ancillary indoor storage Associated offices Food preparation and dining area Manufacture or repackaging of goods for on-site sale Public recycling drop-off site Residential unit for security purposes (single unit) Storage of goods Car wash at a convenience store with gas sales</p>	<p>Adult videos (see Indoor Recreation) Any use that is potentially dangerous, noxious or offensive to neighboring uses in the district or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause (see Heavy Industrial) Car wash, except at a convenience store with gas sales (see Vehicle Sales and Service) Crematorium (see Light Industrial) Food service contractor (see Light Industrial Service) Laundry or dry-cleaning plant (see Light Industrial Service) Repair or service of motor vehicles, motorcycles, RVs, boats, and light and medium trucks (see Vehicle Sales and Service) Restaurant (see Restaurants) Sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures (see Wholesale Trade)</p>

Sec. 5.3 Limited Use Standards

[Paragraphs within this section, but not listed, remain unchanged]

5.3.1 Agricultural Use Standards

A. Agricultural Uses (City Only)

Agricultural uses in the City shall be permitted in accordance with the use table in Sec. 5.1, Use Table, subject to the following standards:

1. In the RS Districts, agricultural uses, other than apiculture, commercial crop production, and forestry, shall only be permitted in the RS-20 District.
2. Commercial crop production, in districts other than RR and RS-20, shall be subject to the following:
 - a. On-site sales as an accessory use pursuant to paragraph 5.2.2, Agricultural Use Categories, are allowed as follows:
 - (1) When no permanent structures used for the purpose of sales are proposed, no parking spaces are required.
 - (2) When permanent structures used for the purpose of sales are proposed, parking in accordance with the retail sales and service parking rate in paragraph 10.3.1, Required Motorized Vehicle and Bicycle Parking, shall be provided, with a minimum of two spaces required.
 - b. Aquaponics and aquaculture are prohibited.
3. Sites shall be designed and maintained to prevent fertilizer, compost, soils, and any other materials from spilling and/or draining onto adjacent property, streams, and public or private stormwater collection systems.
4. The sale of compost is prohibited.

Sec. 5.5 Temporary Uses

[Paragraphs within this section, but not listed, remain unchanged]

5.5.2 Specific Temporary Uses

F. Farmers' Markets

A farmers' market can operate with a temporary use permit as follows:

1. Unless prohibited within the committed elements of a development plan, farmers' markets are allowed within any non-residential zoning district, and within residential zoning districts on property used as a(n) educational facility, place of worship, park, community service facility, or government facility.
2. Temporary use permits are valid for one year and can be renewed on a yearly basis by providing the same documentation that demonstrates compliance with Ordinance standards as done with the original issuance.
3. In addition to the requirements of Sec. 3.12, Temporary Use Permit, the following shall be required:
 - a. On-site presence of a market manager during all hours of operation.
 - b. All vendors shall be producers, as defined in Sec. 16.3, Defined Terms.
 - c. All products sold shall be food or beverage products, farm products, or value-added farm products.
 - d. Provisions for recycling and waste removal. All recycling and waste shall be removed from the premises by the termination of tear-down.

e. Hours and days of operation:

- (1) Hours of operation** shall be allowed between 7 a.m. and 9 p.m. but shall not exceed five hours per day. One and one-half hours before and one and one-half hours after the hours of operation are permitted for set-up and tear-down.
- (2)** A market shall not operate more than two days per week.
- (3)** An additional day per week or two additional hours per day are permitted three times a year to accommodate holidays or special events.

f. Signs: Signs are permitted as follows:

(1) Signs erected only during market hours:

- (a) No sign permit is required.**
- (b) One sign per street frontage is allowed.**
- (c) The maximum sign area per sign is 24 square feet.**
- (d) Signs shall be set up only during the hours between the start of set-up and the end of tear-down.**
- (e) Sec. 11.3, Prohibited Signs, shall apply.**

(2) Permanent signs:

Permanent signs shall comply with Article 11, Sign Standards, and shall be incorporated into the common signage plan of the overall development site hosting the market. If no common signage plan exists for the host site, a common signage plan shall be required.

4. Parking

- a.** During hours of operation, the minimum motor vehicle parking requirements for outdoor markets, pursuant to paragraph 10.3.1A.1, Minimum, shall be provided. If the zoning district has no minimum parking requirement, then no minimum parking shall apply.
 - (1)** Except as allowed via off-site parking **pursuant to paragraph (2) below**, all parking shall be on-site. Required parking spaces of the host property shall be permitted to count towards required market parking so long as a **document** signed by the property owner and market manager **demonstrates** that there will be no parking demand associated with the use of the host property for the same parking spaces during the hours of operation of the farmers' market.
 - (2)** Off-site parking up to 500 feet away, **measured from property line of the parking area to the property line of the market site**, can satisfy parking requirements **subject to the following:**
 - (a)** Such parking areas shall be under the same control (by ownership or lease) as the host property or farmers' market. A copy of the deed or lease agreement shall be provided to demonstrate compliance with this requirement.
 - (b) A pedestrian-safe route exists connecting the parking site and the market site, consisting of sidewalks, traffic-controlled crossings of right-of-way, with no crossing of freeways or major thoroughfares.**

F. G. Manufactured Homes [text remains unchanged]

~~G.H.~~ **Mobile Communication Towers** [text remains unchanged]

~~H.I.~~ **Outdoor Sales** [text remains unchanged]

~~I.J.~~ **Portable On-Site Storage**

1. General

- c. Except as authorized under paragraph J.1.b above, a portable on-site storage unit shall require a temporary use permit under Sec. 3.12, Temporary Use Permit, if it is located on a residential property for more than 30 days.

2. Location

a. Single-family Residences

Except as authorized under paragraph J.1.b above, a portable on-site storage unit for a single-family residence shall be located in the driveway or in the side or rear yard at least five feet from any property line.

b. All Other Types of Residences

Except as authorized under paragraph J.1.b above, a portable on-site storage unit for any residential housing type other than a single-family residence shall be located in an on-site vehicular use area and shall not obstruct any drive aisle or block any required parking space.

~~J.K.~~ **Public Facilities** [text remains unchanged]

~~K.L.~~ **Real Estate Sales Offices and Model Homes** [text remains unchanged]

~~L.M.~~ **Special Events** [text remains unchanged]

~~M.N.~~ **Temporary Structures on Nonresidential Development or Residential Development with at least 50 Units** [text remains unchanged]

~~N.O.~~ **Tents** [text remains unchanged]

Sec. 7.5 Outdoor Display and Storage

[Paragraphs not listed remain unchanged]

7.5.1 Applicability

- A. Regulations governing outdoor storage and display shall apply in all non-residential districts.
- B. Outdoor storage regulations shall not apply to agricultural uses pursuant to Sec. 5.1, Use Table.

7.5.2 Outdoor Display

- B. Except in association with agricultural uses, outdoor display shall be indicated on a site plan illustrating the extent of the permitted area for outdoor display pursuant to the standards below:
- C. For outdoor display associated with agricultural uses pursuant to Sec. 5.1, Use Table, only the following shall apply:
 - 1. No site plan is required.
 - 2. Outdoor display areas shall not block sidewalks or parking areas, and shall not impede pedestrian or vehicular circulation; and
 - 3. Outdoor display areas shall not be located in a public right-of-way except in the Downtown Tier, subject to other applicable requirements.

Sec. 9.4 Project Boundary Buffers

[Paragraphs not listed remain unchanged]

9.4.1 Applicability

- D. No project boundary buffers shall be required for commercial crop production, except for permanent on-site sales facilities and associated vehicle use areas.

Sec. 10.3 Required Parking

[Paragraphs and portions of tables not listed remain unchanged]

10.3.1 Required Motorized Vehicle and Bicycle Parking

A. Motor Vehicle Parking in Rural, Suburban, Urban, and Compact Neighborhood Tiers

1. Minimum

Use Category	Specific Use	Rural, Suburban, and Urban Tiers Minimum Motor Vehicle Spaces	Compact Neighborhood Tier Minimum Motor Vehicle Spaces	Minimum Bicycle Parking, except in the Downtown and Compact Neighborhood Tiers
AGRICULTURAL USES				
Agriculture	All agriculture	1 acre or less: None; Greater than an acre: 1 per site + 1 per 1,000 SF enclosed floor area	1 acre or less: None; Greater than an acre: 0.8 per site + 1 per 1,200 SF of enclosed floor area	No spaces required
COMMERCIAL USES				
Outdoor Recreation				
Retail Sales and Service	Outdoor market	1 per 300 SF vendor area	1 per 360 SF vendor area	5% of required MV parking

Sec. 16.3 Defined Terms

[Definitions within this section, but not listed, remain unchanged]

Agricultural Uses: Land used as pasture or in the commercial production of crops, forestry, horticultural products, fish hatcheries or aquaculture, and the keeping of livestock for commercial or noncommercial purposes. Also included in this definition of agricultural uses are agricultural accessory buildings and sales of farm products grown or produced on the premises. This definition does not include any use conducted pursuant to a valid permit issued under Sec. 3.23, Limited Agriculture Permit, the commercial slaughtering of animals for marketing, and farm tenant dwellings.

Apiculture: The maintenance of honey bee colonies.

Crop: Cultivated plants or agricultural produce, such as but not limited to grain, vegetables, or fruit.

Farmers' Market: A market open to the public where all products sold are farm products, value-added farm products, or a food or beverage product, and where the booths are operated by producers.

Farm Products: Includes, but is not limited to, fruits, vegetables, mushrooms, herbs, grains, legumes, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat and milk), and seafood.

Livestock: Livestock includes but is not limited to poultry and hoofed animals such as cattle, horses, goats, sheep and swine; however, swine commonly referred to as Miniature, Vietnamese or Oriental Pot-Bellied pigs (*Sus scroda vittatus*) shall not be considered livestock if

the animals are no more than 18 inches in height, the owner has proof of registry with the International Potbellied Pig Registry (IPPR), and no more than two are kept at any household.

Producer: A person or entity that makes a food or beverage, raises or produces farm products, or creates value-added farm products from farm products raised or produced on land that the person or entity farms.

Value-Added Farm Product: Any product processed by a producer from a farm product, such as, but not limited to, baked goods, jams, jellies, canned vegetables, dried fruit, syrups, salsa, salad dressings, flours, coffee, smoked or canned meat or fish, sausages, yogurt, cheese, or prepared foods.

PART 2

That the Unified Development Ordinance shall be renumbered as necessary to accommodate these changes and clarifications.

PART 3

That this amendment of the Unified Development Ordinance shall become effective upon adoption.